

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Human Rights Defense Center,
Plaintiff

V.

Board of County Commissioners for Strafford
County, NH, Raymond F. Bower, County
Administrator, Christopher Brackett,
Superintendent and John and Jane Does 1-20,
Staff,
Defendants

*
*
*
*
*
*
*
*
*
*
*

C.A. #1:22-CV-91-LM

DISCOVERY PLAN
Fed. R. Civ. P. 26(f)

DATE/PLACE OF CONFERENCE: September 9, 2022 via telephone.

COUNSEL PRESENT/REPRESENTING: Edward Sackman, Esq. representing Plaintiff; Christine Friedman
Esq. representing Defendants.

CASE SUMMARY

THEORY OF LIABILITY: Defendants have instituted a policy that prohibits incoming paper mail
including hard copies of books and periodicals to inmates. Plaintiff the Human Rights Defense Center
("HRDC") asserts section 1983 actions involving 1st Amendment (Free Speech) and 14th Amendment
(Due Process).

THEORY OF DEFENSE: Plaintiff's constitutional rights were not violated by Defendants and all
affirmative defenses previously pled.

DAMAGES: See Plaintiff's Complaint.

DEMAND: 1/02/2023

OFFER: 3/01/2023

JURISDICTIONAL QUESTIONS: N/A.

QUESTIONS OF LAW: Whether DOC's inmate mail policies violate Plaintiff's First Amendment right to free speech and Fourteenth Amendment right to due process with respect to the ability to deliver hard copies of books and periodicals.

TYPE OF TRIAL: Jury trial.

SCHEDULE

TRACK ASSIGNMENT: STANDARD – 12 MONTHS

TRIAL DATE: January 23, 2024.

DISCLOSURE OF CLAIMS AGAINST UNNAMED PARTIES: If Defendant(s) claim that unnamed parties are at fault on a state law claim (see DeBenedetto v. CLD Consulting Engineers, Inc., 153 N.H. 793 (2006)), Defendant(s) shall disclose the identity of every such party and the basis of the allegation of fault [no later than 30 days before the Joinder of Additional Parties deadline and 45 days before the Plaintiff's Expert Disclosure deadline.

Plaintiff shall then have 30 days from the date of disclosure to amend the Complaint.

AMENDMENT OF PLEADINGS:

Plaintiff: January 3, 2023; Defendant: February 23, 2023

JOINDER OF ADDITIONAL PARTIES:

Plaintiff: December 1, 2022; Defendant: January 23, 2023

THIRD-PARTY ACTIONS: January 8, 2023

MOTIONS TO DISMISS: February 3, 2023

DATES OF DISCLOSURE OF EXPERTS AND EXPERTS' WRITTEN REPORTS AND SUPPLEMENTATIONS:

Plaintiff: June 1, 2023; Defendants: August 1, 2023

Supplementations under Rule 26(e) due thirty (30) days

COMPLETION OF DISCOVERY: September 1, 2023

MOTIONS FOR SUMMARY JUDGMENT: September 25, 2023

CHALLENGES TO EXPERT TESTIMONY: November 17, 2023

DISCOVERY

DISCOVERY NEEDED: Interrogatories, Requests for Production of Documents relating to allegations of legal liability, as well as damages. Rule 30 (b) (6) depositions of both Plaintiff and Defendant.

MANDATORY DISCLOSURES (Fed. R. Civ. P. 26(a)(1)): The parties will abide by Rule 26(a)(1), with the only change being that the time for these disclosures shall be 30 days following the Court's Order on the pending Motion for Preliminary Injunction.

INTERROGATORIES: A maximum 25 interrogatories per side (i.e., Plaintiff and Defendants each get 25 interrogatories). Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

REQUESTS FOR ADMISSION: A maximum of 25 requests for admission per side (i.e., Plaintiff and Defendants each get 25 requests for admission). Responses due 30 days after service unless otherwise agreed to pursuant to Fed. R. Civ. P. 29.

DEPOSITIONS: A maximum of ten (10) depositions by Plaintiff and 10 (ten) by Defendant(s). Each deposition shall be limited to a maximum of seven (7) hours unless extended by agreement of the parties.

ELECTRONIC INFORMATION DISCLOSURES (Fed. R. Civ. P. 26(f)):

- (1) Preservation. Parties agree to preserve all ESI in order to avoid accusations of spoliation;
- (2) All ESI shall be transmitted electronically to the extent possible. Whether it is appropriate to conduct discovery of ESI in phases;
- (3) In the event privileged or trial preparation materials are inadvertently disclosed. See Fed. R. Evid. 502 the receiving party shall seasonably disclose to the sending party. Information may only be used to impeach false statements.

STIPULATION REGARDING CLAIMS OF PRIVILEGE/PROTECTION OF TRIAL PREPARATION MATERIALS

(Fed. R. Civ. P. 26(f)): Parties will abide by all applicable court rules, rules of evidence, and statutes.

OTHER ITEMS

SETTLEMENT POSSIBILITIES:

The parties have explored settlement at length without success and think it unlikely that further settlement discussions will result in resolution.

JOINT STATEMENT RE: MEDIATION: The parties will mediate this case no later than July 1, 2023 and will inform the Court of the results within ten (10) days.

TRIAL ESTIMATE: Three (3) days.

WITNESSES AND EXHIBITS:

- Witness and exhibit lists, include in final pretrial statements, are due 10 days before final pretrial conference but not less than 30 days before trial.
- Objections are due 14 days after tiling of final pretrial statements.

PRELIMINARY PRETRIAL CONFERENCE: The parties (**do not request**) a preliminary pretrial conference with the court before entry of the scheduling order.

OTHER MATTERS: N/A.

Respectfully Submitted,
Board of County Commissioners for Strafford County NH, Raymond Bower and Christopher Brackett
By their Attorneys,
Friedman Feeney, PLLC

/s/ Christine Friedman, NH Bar No. 8780
Christine Friedman
Donald P. Reape
Friedman Feeney, PLLC
95 N. State Street, Suite 5
Concord, NH 03301
603-736-7863

Dated: September 14, 2022

Respectfully Submitted,
Human Rights Defense Center
By its Attorneys,
Bernstein Shur, PA

/s/ Edward J. Sackman
NH Bar No. 19586
Bernstein Shur, PA
670 N. Commercial Street, Suite 109
PO Box 1120
Manchester, NH 03105

CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was served on the following persons on this date and in the manner specified herein:

Electronically Served through ECF:

All counsel of record.

/S/ Christine Friedman
Christine Friedman

Date: September 14, 2022